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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,943	07/03/2003	Kerry McLellan	12620-7	5423
1059 7590 03/16/2009 BERESKIN AND PARR 40 KING STREET WEST BOX 401 TORONTO, ON M5H 3Y2 CANADA				
EXAMINER				
HAIDER, FAWAAD				
ART UNIT		PAPER NUMBER		
3627				
MAIL DATE		DELIVERY MODE		
03/16/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/611,943

Applicant(s)

MCLELLAN ET AL.

Examiner

FAWAAD HAIDER

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-5, 7-12, and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5 and 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 22-29 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/18/08 has been entered.

Election/Restrictions

2. Newly submitted claims 22-29 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: In this case, the method can be practiced in many different ways, for example, a remote agent can be operating the mobile device instead of the delivery agent.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 22-29 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-5, and 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuebert et al (2002/0165729) in view of Myrick et al (2004/0133446) as supported by the Provisional Application (60/423,045).

Re Claim 1: Kuebert discloses attempting a delivery at a primary location (see Figure 2, [0011]); if the delivery to the primary location fails, communicating from a mobile device a notification to the recipient of an upcoming delivery to a preferred redirection location (see Abstract, [0017, 0041]). Kuebert also discloses receiving at the mobile device a response to the notification from the recipient after a failed delivery, wherein the response to the notification is adapted to change the preferred redirection location to an alternative redirection location, and delivering the parcel to the alternative redirection location (see Abstract, [0017, 0029, 0041, 0048]).

However, Kuebert fails to disclose selecting the preferred redirection location prior to delivery. Myrick discloses selecting the preferred redirection location prior to the delivery and also discloses alternate delivery locations, therefore more than one (Abstract, Figures 1-5, [0008, 0046]). From the teaching of Myrick, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kuebert's invention with Myrick's use of selecting the preferred redirection location prior to delivery

in order to "deliver a package or product to an alternate delivery location (ADL) for pick up by a customer or authorized retriever (see Myrick Abstract)."

Re Claim 3: Kuebert discloses wherein the notification step comprises an email to the recipient (see [0036]).

Re Claim 4: Kuebert discloses wherein the notification step comprises a SMS message to the recipient (see [0036]).

Re Claim 5: Kuebert discloses comprising batching manual records of deliveries (see [0027]).

Re Claim 7: Kuebert discloses wherein prior to step (a), the method further comprises registering with a delivery service (see Figure 1).

Re Claim 8: Kuebert discloses wherein the registration step comprises providing the preferred redirection location to the delivery service (see [0011]).

Re Claim 9: Kuebert discloses wherein the registration step comprises providing the primary location to the delivery service (see [0011]).

Re Claim 10: Kuebert discloses wherein the registration step comprises generating an identifier unique to the recipient (see [0034, 0035, 0037]).

Re Claim 11: Kuebert discloses wherein the registration step comprises generating an identifier unique to the transaction (see [0034, 0035, 0037]).

Re Claim 12: Kuebert discloses wherein the primary location is a residential address of the recipient (see Abstract).

Response to Arguments

5. Applicant's arguments filed 12/18/2008 have been fully considered but are moot in view of the new grounds of rejection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fawaad Haider whose telephone number is 571-272-7178. The examiner can normally be reached on Monday-Friday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

Art Unit: 3627

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fawaad Haider/

Examiner

Art Unit 3627

FIH

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627